June 5, 2007

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0010**
Proposed Ordinance No. **2006-0580**

SERRANO (fka *MEREDITH HEIGHTS*)
SEPA[1] **Appeal** (Appeal from Mitigated Determination of Nonsignificance (MDNS))

Location: South of South 300th Street and west of 64th Avenue South

Appellants: Dennis and **Mara Heiman**
6430 South 287th Street
Kent, Washington 98032
Email: mara.heiman@gmail.com

Respondent
King County: Department of Development and Environmental Services (DDES)
represented by **Barbara Heavey**
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Applicant: Harbour Homes
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[1] State Environmental Policy Act.

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal; sustain MDNS[2]

EXAMINER PROCEEDINGS:

Hearing Opened:	December 19, 2006[3]
Hearing Closed:	April 30, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information**:

Owner/Developer:	Jeff Earle Harbour Homes, Inc. 33400 9th Avenue South #120 Federal Way, WA 98003 253-838-8305
Engineer:	D.R. Strong Consulting Engineers, Inc. 10604 NE 38th Place Suite #101 Kirkland, WA 98033 425-827-3063
STR:	SE-2-21-4
Location:	The property is generally located on the south side of South 300th Street and the east side of 64th Avenue South
Zoning:	R-4-P
Acreage:	57.11 acres
Number of Lots:	202
Density:	3.54 units per acre
Lot Size:	Ranges from approximately 3,200 to 8,500 square feet
Proposed Use:	Single-family detached dwellings

[2] By separate concurrent decision, the *Serrano* preliminary plat application is approved with conditions.
[3] The December 19, 2006 hearing commencement took some public testimony and then was adjourned into a prehearing conference because of the receipt of the SEPA appeal. The hearing on substantive matters recommenced on March 8, 2007.

Sewage Disposal: Lakehaven Utility District
Water Supply: Lakehaven Utility District
Fire District: King County District No. 31
School District: Federal Way School District No. 210
Application Completeness Date: May 2, 2005

2. The subject property is an odd-shaped parcel (roughly an L in shape), approximately 57.11 acres in area.[4] It is located in the unincorporated area between Federal Way and Auburn and sits on the uplands and side slopes above the Auburn/Green River valley floor west of West Valley Highway. The internal angle of the L sits at the intersection of 64th Avenue South and South 300th Street, so the property lies east of 64th Avenue South and south of South 300th Street. It also lies southeast of 65th Avenue South, which branches northeasterly from 64th Avenue South in the northwest corner of the property's northerly extension.

A. The site terrain is formed by the property's setting on the uplands and steeply sloped sidehills above the valley floor. The area proposed for development (see ex. 8) lies entirely above the steep side slopes, which are steepest (and closest) in the southeast portion of the northerly extension part of the site, and is located in the Tributary 0053 sub-basin of the Mill Creek sub-basin, part of the greater Lower Green River basin. The uplands above the majority of the sideslopes form a kind of raised topographical lip on the top of bank so that the proposed development area's surface water drainage is not directed immediately to the nearest valley sideslopes but actually away mainly to the north. The bulk of the northerly extension (that portion roughly north of South 300th Street) slopes away from the top of bank to the west and northwest. The southwesterly portion of the site is bisected by a north-descending stream depression (away from the nearest southeasterly descending steep slopes of the Auburn Valley) which contains headwaters of Tributary 0053, with short sideslopes descending toward the depression from either side. The tributary corridor runs north toward and under South 300th Street from the property's frontage, then turns northeasterly to re-enter the site in its northeasterly portion on the 64th Avenue Southeast frontage before departing again to cross under 65th Avenue Southeast and then descend northward toward the valley floor.[5]

B. The southern third, approximately, of the southwesterly part of the site is encumbered by wetlands and high voltage electrical power transmission lines running diagonally from southwest to northeast through the southern-most portions of the site. In addition to the aforementioned stream corridor, several wetland areas lie on the upland portions of the site.

C. The property is developed with eight residences and outbuildings and contains a mix of woods, pasture and brush. The surrounding uplands area is an urbanizing part of the unincorporated county which is converting to fairly standard suburban lot size subdivisions for detached single-family dwellings, although there is a great range of parcel sizes in the area given its previous semi-rural and large lot suburban nature. The

[4] After a pending Boundary Line Adjustment (BLA) being processed under file L06L0036, the property area subject to the preliminary plat will be reduced to approximately 50.92 acres.
[5] The valley opens northwesterly in the area where Tributary 0053 enters it flowing in a northerly direction; the tributary essentially cleaves the valley side slopes with a non-perpendicular side ravine. (See ex. 22)

valley sideslopes in the southerly portions of the site are undeveloped. The valley floor to the north has numerous relatively small acreage tracts (many in the five-acre range), some of which are devoted to agriculture, some are acreage residences with unused pasture, and some wetlands.

3. Applicant Harbour Homes, Inc., proposes the *Serrano* subdivision with development of the upland portions of the property into 202 lots for detached single-family dwellings. A multitude of separate tracts would be created for recreation/open space and drainage facilities as well as a few access tracts for lot access.

   A. Public road access to the developable lots in the proposed subdivision would be provided by the extension of public roads easterly from 64th Avenue South and southerly from South 300th Street, culminating in two networks of roads (one each in the northeasterly portions of the site and in the westerly portions, separated by the aforementioned stream depression), with termini in cul-de-sacs except for: a road stub on the far easterly property boundary in the northeastern part of the site, formed by the short road stub of South 298th Street extending east from 65th Court South; a road stub formed on the far westerly property boundary at the southwesterly temporary terminus of South 303rd Street, west of 60th Avenue South; and a right-of-way extension extending south-southeasterly from the proposed temporary improvement terminus of 61st Avenue South in the southwestern portion of the site. (The right-of-way extension would extend to the far southerly property boundary, with the final location to be determined during engineering plan review and approval.) The road right-of-way stubs on the external boundaries of the property are intended to provide for future extension offsite upon development of adjacent parcels when and if that occurs.

   B. The property is proposed to be developed in two phases (approximately equal in numbers of lots, 103 and 99 respectively), corresponding generally to the topographical separation formed by the stream depression, except that Phase I encompassing the eastern portion would also incorporate the entirety of the property's South 300th Street frontage, including its westerly portion, and therefore would construct full frontage improvements along the entirety of the property's frontage on South 300th Street (in part, that would provide safe walking conditions for resident school pedestrians from Phase I to their nearby schools).

   C. The lot density would be approximately 3.54 dwelling units per acre, with lot sizes ranging from approximately 3,200 to 8,500 square feet.

   D. Chapter 16.82 KCC's tree retention requirements apply to the proposal. A detailed tree retention plan must be submitted with the engineering plans for the subdivision construction.

4. DDES as SEPA responsible official issued a Mitigated Determination of Nonsignificance (MDNS) for the proposed subdivision on November 21, 2006. An appeal of the MDNS was timely filed by Mara and Dennis Heiman on December 15, 2006.[6]

[6] Numerous other persons named in but not signing the Heiman appeal and who later signed an untimely petition requesting to join the appeal were disqualified as appellants by Examiner order issued in response to Applicant and Respondent DDES

5. By Prehearing Order issued February 16, 2007, the appeal was partly accepted for consideration and partly summarily dismissed. The accepted topical issue of appeal is:

   Downstream drainage impact generated and/or aggravated on a cumulative basis by the proposed development, in causing the following alleged adverse impacts by increasing the rate and volume of drainage flow down Tributary 0053:

   a. A rate of runoff increase and erosion continuation in the tributary 0053 ravine.
   b. Without sediment control measures at the base of the ravine, damage to a King County-inventoried critical aquifer recharge area in the base of the ravine and along the valley floor.
   c. Cumulative impacts aggravated by the development to:
      i. Failing drainfields.
      ii. Mold in homes.
      iii. Stagnant toxic wastewater.
      iv. Water in crawl spaces.

   All other SEPA appeal claims were dismissed by the February 16, 2007 Order.

6. Water, including surface water movement/quantity/quality, runoff/absorption, floods, and groundwater movement/quantity/quality, is an element of the natural environment. [WAC 197-11-444(1)(c)] Public services and utilities, including water/stormwater, are elements of the built environment. [WAC 197-11-444(2)(d)]

7. Development drainage is regulated by Chapter 9.04 KCC, the county surface water runoff policy. Chapter 9.04 KCC, which has been adopted as county environmental policy by KCC 20.44.080(B)(7), has required the development of the King County Surface Water Design Manual (SWDM), adopted as administrative rule by the King County Department of Natural Resources and Parks and administered by DDES in the review of development applications such as the one at hand. The subdivision proposal is subject to the 2005 version of the SWDM. As a primary element, the SWDM requires submittal of drainage analysis, and design and implementation of a drainage plan for many land development activities; those have been required for the proposed subdivision.

8. The following excerpts of the SWDM are pertinent to the assessment of the drainage impact mitigation efforts of the project design, including the voluntary offers of the Applicant over and above the SWDM specifications, and the significance of the development's drainage impacts post-mitigation:

   A. "1.2.2.1 Downstream Analysis…. Downstream Drainage Problems Requiring Special Attention. . .[T]here are some types [of downstream drainage problems] that are more sensitive to creation/aggravation than others depending on the nature or severity of the problem and which flow control facility standard is being applied. In particular there are

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motions.

three types of downstream drainage problems for which the county has determined that the nature and/or severity of the problem warrants additional attention through the downstream analysis and possible additional mitigation to ensure no creation/aggravation:

. . .

"3. Severe flooding problems." [SWDM, p. 1-22]

B. "Severe flooding problems can be caused by conveyance system overflows or the elevated water surfaces of ponds, lakes, wetlands, or closed depressions. Severe flooding problems warrant additional attention because they pose a significant threat either to health and safety or to public or private property." [SWDM, p. 1-23]

C. "1.2.2.2 Impact Mitigation. A proposed project must not significantly aggravate existing downstream drainage problems or create new problems as a result of developing the **site**. *This manual* (the SWDM) *does not require development proposals to fix or otherwise reduce the severity of existing downstream drainage problems, although doing so may be an acceptable mitigation.*" [SWDM, p. 1-22, bold emphasis in original, italics added]

D. For severe flooding problems, the problem is considered significantly aggravated if there is any increase in the project's existing contribution[7] to the frequency, depth or duration of the problem for runoff events less than or equal to the 100-year event. [SWDM, p. 1-25]

E. "Problem-specific mitigation requirements

"1. If a proposed project . . . drains to one or more of the three types of downstream drainage problems [such as severe flooding problems] . . . then the applicant must do one of the following:

a) Submit a Level 2 or Level 3 downstream analysis . . . demonstrating that the proposed project will not create or significantly aggravate the identified downstream problem(s), OR

. . .

d) Provide additional onsite flow control necessary to prevent creation or significant aggravation of the downstream problem(s) as specified in Table 1.2.3.A (P.1-29) and further detailed in Section 3.3.5. . ." [SWDM, pp. 1-25 - 1-26, emphasis added]

[7] (Footnote [20] in original) "*Increases in the project's contribution are considered to be prevented if sufficient onsite flow control and/or off site improvements are provided as specified for severe flooding problems in Table 1.2.3.A* (p. 1-29)…." (Emphasis added)

F. For Conservation flood control areas (within which the subject property and the downstream drainage area, including the valley floor, lie), Table 1.2.3.A specifies that the flow control acceptable for impact mitigation for severe flooding problems consists of "Additional Flow Control Apply the **historic site conditions** Level 3 flow control standard *if* flooding is from a closed depression, make design adjustments as needed to meet the 'special provision for closed depressions'."[8] [SWDM, p. 1-29, bold emphasis in original, italics added]

G. "1.2.3.1.C Flood Problem Flow Control Areas

. . .

"Intent

"The Level 3 flow control standard is intended to prevent significant increases in existing water surface levels for two-year through 100-year return frequencies. Such increases are expected to occur as the volume of runoff discharging to the water body is increased by upstream development. Because inflow rates to these water bodies are typically much higher than the outflow rate, increased runoff volumes from upstream development are, in effect, stacked on top of existing volumes in the water body, resulting in higher water surface levels. The duration-matching and 100-year peak-matching criteria of the Level 3 flow control standard counteract this stacking effect by slowing the arrival of additional runoff volumes. Because it can prevent significant aggravation of existing flooding, the Level 3 standard is also applicable to other flow control areas where severe flooding problems have been identified per Core Requirement #2." (Emphasis added)

"Effectiveness in addressing downstream drainage problems

"*If the Level 3 flow control standard is implemented onsite, no additional measures are required to prevent aggravation of the three types of downstream problems described in Core Requirement #2. The one exception is for a wetland or lake that is a closed depression with a severe flooding problem. . .*" [SWDM, pp. 1-36 - 1-37, emphasis added]

[8] "Offsite improvements may be implemented in lieu of or in combination with additional flow control as allowed in [the SWDM]." The "Special Provision For Closed Depressions With A Severe Flooding Problem" specifies that " Special provisions for closed depressions experiencing a severe flooding problem and the amount of new impervious surface area proposed by the project is greater than or equal to 10% of the 100-year water surface area of the closed depression" (which has not been demonstrated in the record), then a "point of compliance analysis technique" is to be used "to verify that water surface levels are not increasing for the return frequencies at which flooding occurs," and that onsite flow control performance is to be adjusted to prevent increases. The SWDM footnote also notes that "if permission to enter private property for [field] measurements is denied, DDES may waive this provision and apply the existing site conditions Level 3 flow control standard with a mandatory 20% safety factor on the storage volume." [SWDM, p. 1-29, footnotes 3 and 5]

H. "3.1.2 Flow Control Standards Level 3 Flow Control - Level 3 flow control is intended to mitigate water level changes in certain volume-sensitive water bodies such as lakes, wetlands, closed depressions where severe flooding problems have been documented. It is the most stringent standard applied in this manual.… Because such water bodies act as natural flow dampeners, it is difficult to detain collected stormwater beyond the natural residence of these systems. Therefore, the increased volume of runoff from new development inevitably increases the water level fluctuations of these water bodies. *The Level 3 flow control standard provides additional storage and increases the detention time to minimize these downstream impacts*.

"This standard requires *maintaining the durations of high flows at their pre-development levels for all flows greater than ½ of the two-year flow up to the 50-year flow and holding the 100-year peak flow rate at its pre-development level. The pre-development peak flow rates for the two-year and 10-year runoff events are also intended to be maintained when applying Level 3 flow control*. As with the Level 2 standard, the pre-development condition to be assumed for matching durations varies depending on the county's conservation/protection goals for the downstream drainage system.

"*This standard is primarily applied in the contributing areas of specific water bodies with severe flooding problems, and which are known to be sensitive to flow volume changes*." [SWDM, pp. 3-5 - 3-6, emphasis added]

9. The drainage impacts of the proposed development have been the subject of voluminous analysis and substantial controversy, primarily due to concerns that the drainage release from the site will significantly aggravate increasingly experienced saturated soil conditions on farmfields and other properties in the flat Auburn valley floor to the north of the *Serrano* site.

A. The development portion of the site has three natural drainage sub-basins: Sub-basin A of approximately 18 acres is in the southwestern portion of the site, which naturally sheetflows to the aforementioned Tributary 0053 north-flowing stream channel onsite and then flows north offsite (before reentering the property into Sub-basin B). Sub-basin B is approximately 15.5 acres and comprises the area adjacent to South 300th Street east of the aforementioned stream channel and most of the area east of 64th Avenue South. It sheetflows northeast toward a wetland area and the reentered Tributary 0053 stream corridor. Sub-basin B outflows leave the site in Tributary 0053 toward the north in a 36-inch culvert that passes under 65th Avenue South. Tributary 0053 then descends through a steep ravine area (see ex. 22) with slopes over 40 percent, which is experiencing significant erosion. The remaining sub-basin is sub-basin C, approximately 3.8 acres in area located in the northeast corner of the site, which sheetflows northwest to the piped storm drainage system on the east side of 65th Avenue South, which except for near its intersection with 64th Avenue South parallels the ravine in a northerly direction.

B. A drainage adjustment (L05V0110) has been approved by DDES for a basin diversion to decrease the development runoff to sub-basin B and divert part of it to the drainage detention facilities in sub-basin C, approximately equalizing their runoff areas and volumes (sub-basin B would be decreased to approximately 9.51 acres and sub-basin C

would be increased to approximately 10.4 acres). The diversion will reduce the volume of site flow to the aforementioned 36-inch cross culvert under 65th Avenue South into the deep ravine and convey it instead to a proposed new catch basin-connected tightline (pipe) to be installed to run downstream bypassing the ravine erosion area and releasing into Tributary 0053 below the area of erosion (the further downstream outlet will be provided energy dissipater features to reduce its erosion-creating potential at its new confluence with Tributary 0053).

C. The Auburn valley floor is near flat with extremely low gradients, and in pre-immigrant settlement times contained a mix of extensive wetlands and shifting braided streams, with very saturated soils. The valley soils, of the *Norma* series consisting of sandy loam with some clay, are moderately to poorly permeable (except in the more coarse-grained alluvial fan areas where streams enter the flat valley; see below sub-Finding 9.H) and therefore naturally drain very slowly and hold a high water table. Groundwater (subsurface) flows are likewise slow in these soils. In converting much of the valley floor to agricultural uses, as was typical with chronically saturated ground, drainage improvements were made consisting of area ditching and installation of sub-surface drainage tile (essentially piping) to facilitate the drainage of the area to downstream tributaries so that the ground would dry enough during the growing season to sustain productive agriculture.

D. Much of the ditching and sub-surface drainage tile systems in the subject area of the valley floor have been neglected, with drainage tile removal and general lack of maintenance of ditches and culverts. There also apparently have been very localized "fixes" such as culvert blocking and flow diversions by bulkheading, in "monkey-wrenching" tactics undertaken by sometimes fractious individual landowners who are understandably frustrated by and desperate to deal with soil saturation and flooding by diverting and warding off drainage flows ostensibly coming from other properties in the valley floor and thereby forestalling or reducing the problems on their own individual properties. But those activities are acknowledged to have merely caused or aggravated local flooding on other properties and areas. Consequently, it is apparent that some properties in the valley floor experience better drainage than others at the present time (and differently at different times; one landowner has ironically experienced much *drier* conditions in the recent past, cause unknown[9]) due to the inconsistency of drainage flows caused by the neglect and lack of maintenance, and random *ad hoc* diversions and blockages.

E. Downstream of the site and the development's proposed drainage facilities including the tightline bypass of the eroded ravine area, Tributary 0053 flattens out into the valley floor and historically flowed (mostly in a well-defined channel but also with some less-defined meandering areas) north and northeasterly to the Venture Ditch, a man-made drainage ditch which flows east from near an adjacent tributary to the west of Tributary 0053 (Tributary 0045, historically (but see footnote 13) in a different sub-basin than the Mill Creek sub-basin, the Mullen Slough sub-basin generally to the west and northwest). The Venture Ditch runs along the rear (south) sides of four five-acre parcels lying on the south side of South 287th Street and flows to the east to the West Valley Highway. The

[9] But perhaps because of the relatively recent diversion of Tributary 0045 into the Venture Ditch; see footnote 13.

ditch waters then cross under the highway through concrete culverts which have been routinely described in this proceeding as "twin 24-inch" diameter culverts (though they are indicated as 27-inch and 30-inch on the upper Mullen Slough Existing Conditions base maps; ex. no. 22). From there, the Venture Ditch/Tributary 0053 outflows ran northerly on the east side of West Valley Highway and ultimately formed a confluence downstream with Mill Creek and then to the Green River. The Venture Ditch in the past evidently had not been maintained well, but in 1999 was been cleaned out by the Appellants and is functioning well. Thought by some to be near or over capacity, it did not overtop during the recent extreme storm events of the fall of 2006, during which the area experienced the wettest November on record and also individual storm events of an extreme precipitation nature, particularly the approximately 100-year storm event of November 6, 2006, which dropped 3.29 inches of rainfall in 24 hours.

F. A recent development in the Tributary 0053 drainage system, just one parcel south of the east part of the Venture Ditch, the Meredith Business Park within the City of Auburn has constructed extensive drainage improvements for its own development (including significant drainage volume storage facilities) and also to convey Tributary 0053 high flows (above the two-year storm rate) away from the northerly route to the Venture Ditch (via weirs[10]) and run them easterly to cross the West Valley Highway in a separate 36-inch smooth-wall culvert (just south of the Venture Ditch culvert crossings), the outlet of which will be directed easterly rather than northerly to form a confluence with Mill Creek in the state highway SR-167 right-of-way (which runs parallel to the West Valley Highway approximately 800 feet to the east), relieving the West Valley Highway ditch system of backwater conditions during high flows. The new Meredith Business Park drainage facilities, operating with a capacity of 43 cfs (cubic feet per second), will thus relieve the Venture Ditch of the high flows of Tributary 0053. [11] [12]

G. Concern is expressed by the Appellants that the Venture Ditch outlet will be over-capacity even with the diversion of Tributary 0053 high flows. The "twin 24" inch culverts have a nominal capacity of 24 cfs with no "head" (water pressure from upstream), but credible expert testimony opined that with an inlet head of one foot above the inlet the capacity will be approximately 50 cfs, and at 100-year flow conditions the capacity will be around 65 cfs, more than sufficient to carry the waters which remain from the diversion of Tributary 0053 high flow waters[13] through the Meredith Business Park (and seemingly with sufficient capacity remaining to handle overflows of those high waters away from the designed Meredith Business Park routing, which overflows are feared and have been speculated upon but not shown by the evidence as probable, since

[10] Which will default to carrying Tributary 0053 waters even during base flows if there is an operational malfunction of the weir system.

[11] The Venture Ditch will also be somewhat relieved of its problematic 90-degree turn confluence of Tributary 0053, the physical dynamics of which lend themselves to higher erosion and sediment load drop, which require higher maintenance and can reduce capacity if not maintained.

[12] The 100-year storm flow of Tributary 0053 has been calculated at between 62.5-75 cfs; the official King County estimate is 63 cfs. Drainage analyses performed for the Meredith Business Park and the *Serrano* development have used 74 cfs as a conservative design approach.

[13] Tributary 0045, all of which is diverted to the Venture Ditch currently (as it has for several years, having diverted from its former northerly flow to the Mullen Slough), will contribute 12.2 cfs during the 100-year storm. A Mullen Slough capital improvement program (CIP) is intended in the next few years to redirect Tributary 0045 flows northerly once again and they will then no longer flow into the Venture Ditch.

the total flows of Tributaries 0053 and 0045 have been adequately handled very recently by the Venture Ditch in a 100-year storm; the speculative lack of Venture Ditch capacity would be even more doubtful when Tributary 0045 is redirected northerly away from the Venture Ditch by the Mullen Slough CIP; see footnotes 13 and 18).

H. Given the general nature of the historic braided streams in the Auburn valley floor to wander, particularly in the easily erodible soils of their alluvial fans at the points where they flatten out into the valley floor, and given past experiences of local stream wandering into adjacent sub-basins (such as asserted flows from Tributary 0053 into the adjacent basin of Tributary 0045, seemingly "assisted" by some of the diversionary tactics of one or more property owners), concern is expressed about:

i. The potential for surface drift and/or seepage diversions from Tributary 0053 *base* flows into the adjacent Tributary 0045 sub-basin outside of the Tributary 0053/Mill Creek sub-basin. From a preponderance of the evidence in the record, the allegations of such diversions and/or seepages by the Appellants are found inconclusive, and as to effect if the phenomenon does occur, are not persuasive of significant impact or aggravation. In particular, they are unpersuasive of the flooding causation/aggravation alleged, since a) Tributary 0053's high flows are shown persuasively to be diverted through the Meredith Business Park system, and b) persuasive expert testimony contends that, in any case, any "bleeding over" of such waters at base flows, if it actually occurs, will, again, only lead them to the capacity-relieved Venture Ditch for conveyance easterly to the West Valley Highway, well south of the Southeast 287th Street area (an area of great concern to the Appellants and others; see sub-Finding 9.O).

ii. The potential for Tributary 0053 waters to continue running northerly during *high* flows and not divert as planned into the Meredith Business Park drainage facilities and away from the Venture Ditch. The evidence in the record is not persuasive that that phenomenon will occur, but if even if there is some flow northward, it will still follow the general historic direction northerly and end up intercepted by the Venture Ditch, which as noted will at least be relieved of much its high flows by the Meredith Business Park routing (and in the near future relieved of the Tributary 0045 flows) and will therefore easily accommodate any escaping high flows from the intended routing of Tributary 0053.

I. The Meredith Business Park drainage facilities are also alleged by the Appellants and other nearby neighboring property owners not to have functioned properly during the aforementioned extreme weather events, but the preponderance of the record, including unrefuted expert testimony, indicates persuasively that the drainage facilities were still under construction during the heavy storm events between November 2006 and January 2007, and were not yet functional. The improvements had to be completed and stabilized (as to weir operation, etc.) to become fully functional.

J. As seen above, the *Serrano* development will benefit from the complementary mitigation provided by the Meredith Business Park drainage facilities and the alternative routing under the West Valley Highway, bypassing the Venture Ditch and relieving it of high

flows. More importantly with respect to *Serrano*'s drainage impacts, the Applicant has gone to extra lengths in the development design to mitigate the proposed development's drainage impacts on the downstream flooding problems. After providing an initial Level 1 Downstream Analysis, the Applicant preempted any further need for significant formal downstream analysis by opting instead to provide more than the highest level of county regulatory drainage detention and release standard, which is identified as Level 3 in the SWDM.[14] In addition to restricting the release at the county's most restrictive standard, the Applicant has voluntarily offered to base the allowable release rate calculations[15] not on the existing property runoff conditions, as typically allowed by the SWDM, which would equate to a higher base runoff rate than the "historic" condition of a fully forested state due to the presence of structures and other impervious surfaces and pastureland (which has a higher runoff coefficient than forested vegetation), but will instead base them on the standard 2nd growth forested condition runoff coefficient. The Applicant also voluntarily proposes to account for developed grass surfaces as "impervious" even though grassy areas do allow for some infiltration, thus adding an additional margin of reduction.

K. As a result the proposed release rate will be significantly lower than is required by the county's most restrictive regulatory specification, the standard Level 3 release rate (again, required to be based on existing conditions rather than the forested condition runoff coefficient). The Applicant has termed this drainage specification as "Level 3 +" for purposes of distinction from the standard Level 3 requirement. The Applicant is also performing Best Management Practices (BMP's) consisting of infiltrating ten percent of the lot areas' drainage and revegetating wetland buffers, which will also lower the developed condition runoff volume from the development. The net result is that the *Serrano* property's drainage release rate during the 100-year storm will be reduced from the existing 4.41 cfs to 2.67 cfs upon development, a reduction of approximately 39 percent, and the release rate during the statistically applied lesser storm events will also be reduced, most with correspondingly proportional decreases. (See exs. 10, 64 and 68)

L. As can be seen from Finding 8, the Level 3 flow control standard is applied by the SWDM not only in cases of significant downstream drainage problems but also in closed depression systems (which could be thought of as a separate class of downstream drainage problem). The Appellants claim that the flat valley floor is akin to a closed depression, but the Examiner finds by a preponderance of the evidence that the Tributary 0053 subbasin, into which the development's drainage will flow (and therefore the only one needing to be addressed directly here) is indeed not a closed depression. The general valley floor in the area is certainly a near flat area of poorly drained soils, with necessary man-made drainage facilities which have not been maintained to operate sufficiently, and

[14] Such preemption is permitted by the SWDM; see Finding 8.E. The Applicant felt that additional downstream analysis would likely have reached the same conclusion that Level 3 flow control was necessary, so decided to expend the costs of the additional analysis elsewhere.

[15] In calculating predevelopment flow rates, use of a continuous hydrologic modeling system is required rather than the event modeling system used in implementing past versions of the SWDM. A single event model does not accurately reflect the sequential storm characteristics of typical Puget Sound wet seasons; the event model also assumes that the detention facility is empty at the start of a design event whereas actual detention facilities may be partially full as a result of preceding storms. The continuous hydrologic modeling approach accounts for the long duration and high precipitation volume of winter wet periods characterized by sequential, usually low-intensity rainfall events.

parts of the valley floor area may constitute a closed depression as defined by the SWDM, but the Tributary 0053 sub-basin is certainly not one of them. If nothing else, the Meredith Business Park drainage improvements, onsite and downstream including the additional culvert capacity under the West Valley Highway and conveyances downstream, along with the relieved capacity of the Venture Ditch, provide more than sufficient outflow capacity down to Mill Creek to render the Tributary 0053 sub-basin free-flowing and clearly not a closed depression.[16] [17] [18]

M. The preponderance of the evidence indicates that the experience of ground saturation, ponding and groundwater flows would not be caused or aggravated by the proposed development, and certainly not to any degree approaching significance. Those situations may have been aggravated by past upland developments which were subject to lower drainage standards under previous versions of county drainage regulations or, if old enough, subject to none at all. But mostly, the valley floor flooding seems highly localized, and attributable mostly to i) relatively high levels of precipitation which fall onto low permeability, slow-draining soils, and ii) the aforementioned systematic deterioration and disruption of the area's subterranean drainage systems and drainage ditches. (Anecdotes about historically drier soil conditions may be as much attributable to the systems' deterioration and blockages over time as to any other cause. And the subterranean rushing water flows observed on Appellants Mara and Dennis Heiman's property on the north side of South 287th Street may be attributable to errant drainage groundwater flows having found a way around blocked culverts/draintiles.)[19]

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[16] Neither is the Tributary 0045 sub-basin a closed depression, since as noted it drains freely via the adequate Venture Ditch.

[17] In any case, the "Level 3+" provisions will also retard the release rates and stretch out the volume of release so that the "stacking of flows" phenomenon of concern in closed depression situations will not occur in the Tributary 0053 sub-basin as a result of the *Serrano* development. The development's drainage design will provide a near-retention situation with a greater balancing of inflows and outflows than is required with typical Level 3 flow control.

[18] The parts of the valley floor area other than the Tributary 0053 and 0045 sub-basins which may constitute a closed depression(s) as defined by the SWDM and may experience problematic additional volumes of runoff which come down the tributaries from the uplands into the valley floor do not seem so much a technically closed depression as much as an area of difficult drainage which difficulties have been aggravated by the retardation of drainage flows caused by general lack of maintenance, culvert blocking and drainage tile removal and the aforementioned *ad hoc* diversions and blockages. (Some of these problems will likely be alleviated by programmed county CIP's which will install improved drainage facilities in the upper Mullen Slough and Mill Creek sub-basins. There is also a county Agricultural Ditch Assistance Program assisting with the permitting necessary for ditch and tile maintenance (contended to be made more complex by the Critical Area Ordinance (CAO)), which has been successful in the Tributary 0048 sub-basin. And the valley floor agricultural area would certainly seem to benefit from some sort of local drainage district to govern and maintain the valley floor drainage systems; the recently enacted county-wide flood control district may have extensive enough a programmatic reach to benefit these areas of the valley.)

[19] In this regard, the Examiner concurs with the expert testimony provided by county drainage personnel that water flows will seek the path of least resistance and where clear drainage paths are provided by surface ditching and subterranean piping, the flows will utilize them. The preponderance of the evidence does not support the assertion that saturation and groundwater flows on individual properties north of the Venture Ditch are caused by flows from Tributary 0053, since such flows are intercepted by the Ditch and the preponderance of the evidence in the record does not support the speculative notions that the flows bypass or overtop the Ditch during high flow conditions, or seep northward from the Ditch and flow onto adjacent and nearby properties to the north. As noted, the evidence is that the Venture Ditch did not overtop during the recent 100-year level storm event and if anything, the evidence shows that during most flow conditions during the vast majority of the time, any seepage would be *southward*, *into* the Ditch (as noted, seeking the path of least resistance, in this case a surface ditch). And in any case, the new routing through the Meredith Business Park will take the high flows of Tributary 0053 and convey them in a different routing as noted above. And as noted previously, any possible drifting over of Tributary 0053 base flow waters toward the Tributary 0045 channel adjacent to the west will be intercepted by the Venture Ditch and conveyed easterly.

N. No causal or aggravating link has been shown between the *Serrano* property's drainage/ Tributary 0053 flows and past overtopping/flooding of Southeast 287th Street, which again is in the Mullen Slough sub-basin, not in the Mill Creek sub-basin. From the evidence in the record, it appears to be localized flooding. It has not been shown to be caused as speculated by seeps running northward from the Venture Ditch and/or Tributary 0053.

O. Neither has any causal or aggravating link been shown between the *Serrano* property's drainage/Tributary 0053 flows and the increasingly saturated ground conditions in the South 287th Street neighborhood testified to by area property owners, which inhibit agricultural production by shortening the growing season. Those portions of the valley floor are not affected by Tributary 0053, only somewhat by Tributary 0045, and more by other tributaries to the west: Tributary 0047 running roughly parallel and approximately 600 feet west of Tributary 0045, and Tributary 0048, northwest of Tributary 0047. (See ex. 22) All of those tributaries are part of the upper Mullen Slough drainage basin, are not part of the Tributary 0053/Mill Creek basin within which the *Serrano* property lies and to which its drainage flows, and are addressed for improvement by the Mullen Slough CIP which is scheduled for near-term future implementation. They are not affected by the *Serrano* drainage, would not be aggravated by it, and any adverse impacts they are experiencing or might in the future are not attributable to *Serrano*.

P. The *Serrano* drainage facilities will conform to county water quality maintenance requirements during and post-construction. The development is required to do so by county code and the SWDM, and will install temporary and permanent erosion and sedimentation controls. In addition to the enhanced detention volumes and release rate standards proposed, the SWDM drainage adjustment revising the land areas of onsite drainage Basins B and C will decrease the amount of water discharged into the ravine erosion area and increase the amount bypassing it via the tightline, further reducing the erosive potential of the discharge from the site. No significant addition to or aggravation of erosion in the Tributary 0053 ravine is shown by a preponderance of the evidence in the record.

Q. No persuasive evidence is presented regarding adverse impact by *Serrano* drainage to a critical aquifer recharge area, as alleged in the appeal.

R. Precious little evidence has been offered regarding the alleged secondary adverse impacts of the development's drainage on septic system operation and creation of wastewater. Some has been offered regarding the experience of mold in the interiors of residences, and water in crawl spaces, in the Southeast 287th Street neighborhood. Given the finding that the development's drainage will not adversely impact that neighborhood or elsewhere, and particularly will not aggravate the experience of saturated soil conditions in those areas, the assessment of those secondary impacts is moot in any case. The preponderance of the evidence in the record shows that the *Serrano* development would not cause or aggravate those phenomena.

10. In the final analysis:

A. The development's proposed drainage facilities and drainage design fundamentally will conform fully to and indeed exceed the county SWDM and drainage regulations of county code by using the offered "Level 3+" release rates and significant avoidance of the Tributary 0053 ravine erosion area.

B. Up to the 100-year storm event, the maximum design level requirement,[20] the development's drainage will not cause or aggravate downstream flooding. It will not increase the rate of runoff from the *Serrano* property as alleged. Runoff volumes will be mitigated to a level greatly exceeding the directly applicable and detailed regulations and specifications contained in the county's GMA development regulations.

C. The development's drainage mitigation will be complemented by the routing of Tributary 0053 high flows through the new Meredith Business Park drainage facilities and the new additional culverting under the West Valley Highway (freeing up the Venture Ditch and its West Valley Highway culverting not to be burdened by the Tributary 0053 high flows) and then the routing easterly to bypass the West Valley Highway drainage system.

D. If the speculative drifting of Tributary 0053 waters into Tributary 0045 occurs, in any case it will not be aggravated by the *Serrano* development because its runoff rate will be significantly reduced from that existing at present and because both Tributaries will have free-flowing conditions to their outfalls to Mill Creek downstream. (In addition, Tributary 0045 will in the near future be redirected back into the Mullen Slough sub-basin by the referenced CIP.)

E. Neither Tributary 0053 nor 0045, individually or combined, constitutes or is part of a closed depression, and therefore the development is not subject to closed depression drainage regulations and specifications. As noted above, both Tributaries will have free flow to their outlets downstream.

F. The development's drainage will not cause, or exacerbate to any significant degree at all, downstream flooding problems in the Mullen Slough sub-basin and its farmland and residential properties on the valley floor, such as those in the South 287th Street neighborhood.

CONCLUSIONS:

1. The appropriate test to apply in an appeal of a SEPA threshold determination is the clearly erroneous standard: the action of the responsible official is not disturbed unless, after reviewing all the evidence in the record, the appellate decisionmaker is left with the definite conviction that a mistake has been made. [*Ass'n of Rural Residents v. Kitsap County*, 141 Wn.2d 185 at 195-96, 4 P.3d 115 (2000); also see *Leavitt v. Jefferson Cy.*, 74 Wn. App. 668, 680 (1994) (citations omitted)]

[20] Beyond that threshold, storm events and related flooding are considered "acts of God" and not regulated.

2. The appellant bears the burden of proof. Both state rule [WAC 197-11-680(3)(a)(vi)] and county code [KCC 20.44.120 (A)(3)] provide that the threshold determination prepared by the county's responsible official is to be accorded substantial weight during any appeal proceeding.

3. WAC 197-11-330 provides general guidelines to be used by the SEPA responsible official. The guidelines call for the responsible official to place the probable impacts in the context of their surroundings and make a reasoned judgment as to both the probability of their occurrence and the severity of their impact should they occur. The responsible official must also "[c]onsider mitigation measures which an agency or the applicant will implement as part of the proposal." [WAC 197-11-330(1)(c)] SEPA does not require that all adverse impact be avoided, only that probable significant adverse impact be either avoided (by sufficient mitigation or other actions) or disclosed in an EIS. In determining whether a project will cause probable significant adverse impacts, the specific characteristics of the project as proposed, offers made by the applicant, and regulatory requirements of local, state and federal government must be considered.

4. In order for a DNS to be found clearly in error, one or more unmitigated probable significant adverse environmental impacts must be demonstrated by a preponderance of the evidence. As noted, the burden of that proof falls on the Appellants. It is not enough to raise questions or doubt, or to claim that further analysis should be undertaken, etc., in an attempt to shift the burden to the responsible official. That runs counter to the burden of proof placed on the Appellants and the statutory assignment of substantial weight to the threshold determination.

5. The test of the likelihood of occurrence of a significant impact under SEPA is probability, not mere possibility or potential. And the probability must be proven, not merely speculated upon. An impact which is remote or speculative is not a probable impact. Merely possible and potential impacts need not be disclosed.

6. The level of impact which must be proven to be probable is significant. It is not required under SEPA to disclose adverse impacts which are not significant. " 'Significant' as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality." [WAC 197-11-794]

7. As noted, SEPA requires consideration of the operation of regulatory provisions as mitigation of adverse environmental impacts. [WAC 197-11-330(1)(c); but also see RCW 43.21C.240] The County may determine that the "requirements for environmental analysis, protection, and mitigation measures" in the County's GMA regulations "provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action," subject to several criteria, among which is the following requirement: "the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the [GMA] regulations." [RCW 43.21C.240] In summary, by operation of state law, RCW 43.21C.240, and also by county code [KCC 20.44.080(C) and KCC 21A.28.050(A)], compliance with directly applicable and specific county GMA drainage regulations (Chapter 9.04 and the SWDM) provides presumptively sufficient mitigation of any significant adverse drainage impact to a level below significance.

8. The preponderance of the evidence in the record is persuasive that the proposal complies fully with, and in fact will exceed, the requirements of Chapter 9.04 KCC and the SWDM.

9. The development's drainage impacts are specifically and adequately addressed by the required adherence to the county drainage code, Title 9 KCC, and the regulations and specifications established in the SWDM. By the operation of RCW 43.21C.240 and the referenced counterpart operation of county code, compliance with those regulatory provisions presumptively provides sufficient mitigation of significant adverse drainage impacts. And in this case, aside from the legal mandate of such conclusion, on its own right the evidence in the record of the specifics of the development proposal, the developer's voluntary offers of mitigation, and the effects of the SWDM requirements and the resultant development design compels a conclusion that the probable drainage impacts of the proposed development will not be more than a moderate adverse impact and thus do not rise above the threshold of significance.

10. No unmitigated probable significant adverse impacts are shown by a preponderance of the evidence to be caused by the development's drainage. The MDNS, noting the mitigation measures proposed by the Applicant and provided by other actions, is therefore correct in its determination of the absence of unmitigated probable significant adverse drainage impacts.

Summary Conclusion

11. In the topical area of the accepted appeal issue, the MDNS is correct in its determination of the absence of unmitigated probable significant adverse environmental impacts, and is sustained. The MDNS appeal must therefore be denied.

DECISION:

The appeal from the Mitigated Determination of Nonsignificance (MDNS) issued by DDES on November 21, 2006 under SEPA for the proposed action (the proposed *Serrano* subdivision; L05P0010) is denied. The issuance of the MDNS is sustained.

ORDERED June 5, 2007.

_____

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED June 5, 2007 to the following parties and interested persons of record:

Mike & Linda Baker	Barghausen Consulting Engr.	John Baringer
Carol Bond	Greg & Colleen Bruin	Kelly & Tina Busenius
Brent Carson	Sam Choi	City of Auburn
Howard & Sharon Cottier	Sally Cowan	Luisito Cuaresma
Kathleen Cummings	Roseanna Donley	Debbie Doyle
Brent Evans	Jim & Karen Ficca	Kris & Ruth Greb
Nancy Grimes	Harbour Homes, Inc.	Jay & Bonnie Harper

Mara & Dennis Heiman
Jim & Kris Hudson
Kameron Hunt
Phillip & Suzanne Kneip
Lori Michaelson
Muckleshoot Indian Tribe
Daniel J. Poortvliet
Joe Santamaria
Joseph Schuler
Beth Shoemaker
Shirley N . Spencer
C. W. Taylor
WSDOT - NW Region
Lisa Dinsmore
Shirley Goll
Brian Sleight
Kelly Whiting
John Henner
Greg Hugh
Nicholas Johnson
Norman & Darlene Locken
Jeanette Miller
Megan Nelson
Marjorie Pulliam
Eric & Clarita Santos
Seattle KC Health Dept.
David & Nancy Sommerfield
Robert Stillings
Patricia Taylor
Trishah Bull
Steve Foley
Barbara Heavey
Steve Townsend
Bruce Whittaker
Jerry & Dode Holdsworthy
Floyd & Doreen Hunt
Luay Joudeh
Angela McGregor
Howard Mount
Rod Parr
Leanne Raybuck
Don & Christi Scarsella
D. Shear
Jeffrey L. Spencer
Talasaea Consultants
Jennifer Wing
Kim Claussen
Nick Gillen
Kristen Langley
Larry West

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.44.120 KCC, the Examiner's decision on the subject type of SEPA appeal is final on behalf of the County. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act (LUPA) defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE FEBRUARY 8, 2007, MOTION HEARING AND THE DECEMBER 19, 2006 AND MARCH 8 AND APRIL 2, 4, 25 and 30, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0010.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Barbara Heavey, Trishah Bull, Bruce Whittaker, Kristen Langley, and Brian Sleight, representing the Department; Brent Carson and Megan Nelson representing the Applicant; James Klauser representing the Appellant; Appellant Mara Heiman; and Carol Bond, Brent Evans, Luay Joudeh, Howard Cottier, James Ficca, Eric Santos, Jim Hudson, Roseanna Donley, Dan Balmelli, Bill Shiels, John C. Baringer, Brian Sleight and Steve Foley.

The following exhibit was offered and entered into the record on February 8, 2007:

Exhibit No. 1 Email chain beginning on December 12, 2006, at 8:40 a. m. and ending on December 12, 2006, at 1:51 p. m.

The following exhibits were offered and entered into the record on March 8, 2007

Exhibit No. 2 Department of Development and Environmental Services file no. L05P0010

Exhibit No. 3	Department of Development and Environmental Services Preliminary Report, dated December 19, 2006
Exhibit No. 4	Application for Land Use Permits received May 2, 2005
Exhibit No. 5	SEPA Environmental checklist received April 27, 2006 (revised)
Exhibit No. 6	SEPA Mitigated Determination of Non-significance issued November 21, 2006
Exhibit No. 7	Affidavit of Posting indicating a posting date of July 20, 2005; received by DDES on July 22, 2005
Exhibit No. 8	Preliminary plat map received July 13, 2006 (revised)
Exhibit No. 9	Level 1 Downstream Analysis by DR Strong Consulting Eng., Inc., received May 2, 2005
Exhibit No. 10	Conceptual Road and Storm Drainage Plan received April 27, 2006 (revised)
Exhibit No. 11	Critical Areas Report and Buffer Establishment Program Report by Habitat Technologies, received May 2, 2005
Exhibit No. 12	Preliminary Geotechnical Engineering Study, Proposed Johnson Farm by Earth Consultants, Inc., received May 2, 2005
Exhibit No. 13	Meredith Heights Plat Level 1 Traffic Impact Analysis by Jake Traffic Engineering, Inc., received May 2, 2005
Exhibit No. 14	Approved KCRS Variance no. L05V0109 dated September 21, 2006
Exhibit No. 15	Approved KCWSDM Adjustment no. L05V0110 dated May 4, 2006
Exhibit No. 16	Letters from State of Washington Department of Fish and Wildlife dated a - December 12, 2006 b - March 1, 2007
Exhibit No. 17	Aerial photo of subject area annotated to show stoplights
Exhibit No. 18	Conceptual landscape plans (color) by DR Strong Consulting Engineers, Inc., for: a – Tracts E, P, A, I and R b – Proposed development
Exhibit No. 19	Memorandum from Buck & Gordon, LLP, to King County Hearing Examiner with attachments (14) dated March 7, 2007

The following exhibits were offered and entered into the record on April 2, 2007:

Exhibit No. 20	DDES proposed revision to condition 7.a, paragraph 2
Exhibit No. 21	Photos (2 color) of crawl space, submitted by James Ficca
Exhibit No. 22	Map of Mill Creek Tributary 0053/Upper Mullen Slough
Exhibit No. 23	Photos presented by Eric Santos a) 1-page color copy b) photo album
Exhibit No. 24	Photo montage (color copies) of field with standing water
Exhibit No. 25	Photo (color copy) of new pavement w/roadside standing water
Exhibit No. 26	Photo (color copy) of interior of Henderson Barn
Exhibit No. 27	Photo montage (color) of field with standing water, from Roseanne Donley
Exhibit No. 28	Photo montage (color) of field with standing water, from Roseanne Donley
Exhibit No. 29	Photos (4 color) provided by Roseanne Donley
Exhibit No. 30	Testimony of Roseanne Donley dated March 31, 2007
Exhibit No. 31	Testimony of Howard A. Cottier
Exhibit No. 32	Diagram by Talasaea Consultants, Inc., showing coir log placement
Exhibit No. 33	Photograph (2 color copies – A and B) showing coir logs
Exhibit No. 34	Email from Mara Heiman re: Drainage Complaint with 6 attachments (3/17/06 letter and 8 photographs – 5 black and white copies plus 3 color duplicates)
Exhibit No. 35	Photo montage (color copies) taken by Bruce Whittaker showing standing water along

	roadside, dated 1/13/06
Exhibit No. 36	Aerial photo of subject area, indicating a date of 5/4/80
Exhibit No. 37	Final MDNS for Meredith Business Park signed August 17, 2004
Exhibit No. 38	City of Auburn Hearing Examiner's recommendation for the Meredith Business Park with cover letter from Paul Krauss dated October 25, 2004
Exhibit No. 39	City of Auburn Agenda Bill Approval Form for application no. PLT04-0003 with attached Resolution No. 3781
Exhibit No. 40	City of Auburn Grading Receipt for permit no. GRA01-0022, issued 5/11/2005 for 3815 Valley Hw N
Exhibit No. 41	WA Dept. of Fish and Wildlife hydraulic project approval issued April 14, 2006, for control no. 104669-1, Meredith Business Park Wetland Mitigation
Exhibit No. 42	Letters from Army Corps of Eng. dated 1/4/2000 regarding wetland restoration w/attached Corp's Jurisdictional Areas map and 6/17/2003 regarding - nationwide permits
Exhibit No. 43	Letter from Barghausen Consulting Engineers to Tim Carlaw, City of Auburn, re: Meredith Business Park weir design, dated June 12, 2006
Exhibit No. 44	Storm drainage improvement plans for Span-Distribution Center Alaska with City of Auburn approval on 7/18/2006
Exhibit No. 45	Photographs (6 color copies, A-F) taken by Bill Shiels
Exhibit No. 46	Photograph (1 color copy)

The following exhibits were offered and entered into the record on April 4, 2007:

Exhibit No. 47	Mullen Slough CIP Study and Action Plan - final draft, dated October 2002
Exhibit No. 48	Photo montage (color copy) taken by Bruce Whittaker on 1/13/2006
Exhibit No. 49	Photos (2 color copies) taken by Bruce Whittaker on A) 1/11/2006 and B) 1/13/2006
Exhibit No. 50	Email chain – Bruce Whittaker to tcarlaw and Mason Bowles to Bruce Whittaker dated January 12, 2006
Exhibit No. 51	Mill Creek/Mullen Slough Chronic Flood Assessment, 2002, dated June 2002
Exhibit No. 52	Photo (1 color copy) taken by MH in later summer 2006
Exhibit No. 53	Letter from King County Water and Land Resources Division to Mara Heiman dated May 1, 2006, regarding Drainage Issues Letter 03/17/06
Exhibit No. 54	Email chain Steve Foley to Fred White – March 23, 2006 and from Fred White to Steve Foley - March 27, 2007
Exhibit No. 55	Photo (1 color copy)
Exhibit No. 56	Photograph (1 color copy)
Exhibit No. 57	Copies of Drainage Investigation Report file no. 96-2004 with 5 attachments
Exhibit No. 58	Photos (4 color copies) A) Heiman crawl space 2/19/2007, B) mold in Heiman attic, C) fungus on carpet taken about 3/01/07 and D) photo of neighboring residence taken March 2007
Exhibit No. 59	Mara Heiman comment letter dated March 17, 2006
Exhibit No. 60	Letter to Mara Heiman from the City of Auburn dated August 16, 2004, with attachments (79 pages total) (excluding City of Auburn cover sheet of 9-15-04)
Exhibit No. 61	Complaint Investigation Report for no. 090366 with attachment, dated August 8, 1983

The following exhibits were offered and entered into the record on April 25, 2007:

Exhibit No. 62	Map entitled Alternative #8, Protect Mill Creek Corridor (annotation by Luay Joudeh), dated December 1999
Exhibit No. 63	Map entitled Trib. 053, Existing Conditions, Proposed Developments, dated October 13, 2005
Exhibit No. 64	Technical Information Report by D.R. Strong Consulting Engineers, Inc., dated November 8, 2006
Exhibit No. 65	King County Flow Control Applications Map dated December 2004
Exhibit No. 66	Data sheets regarding Runoff Rates (5 pages), Location: Sea-Tac
Exhibit No. 67	Aerial orthophotos (2 color – A-2002 and B-2005) of subject area
Exhibit No. 68	A – Table and B – Chart , both entitled Total Serrano Site Runoff Rates
Exhibit No. 69	Photographs – 16 color copies with side notes on 8 pages provided by Brian Sleight of King County Department of Natural Resources and Parks
Exhibit No. 70	Cross-sectional profile chart provided by Brian Sleight of DNRP

The following exhibits were offered and entered into the record on April 30, 2007:

Exhibit No. 71	Core Requirement #2: Offsite Analysis from 2005 Surface Water Design Manual
Exhibit No. 72	Color photograph of Roseanna Donley taken in 2006
Exhibit No. 73	Letter to Dave Clark from Dennis Dowdy dated December 17, 1998
Exhibit No. 74	Appellant's objection & request for relief from Rowley & Klauser, LLP

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